

Melody Sears

PO Box 431, Hillsboro NM 88042

April 25, 2013

Pam Castañeda, Commission Administrator
New Mexico Water Quality Control Commission
Harold Runnels Building
1190 St. Francis Dr., N-2150
Santa Fe, NM 87502

RE: Water Quality Rules for Copper Mining WQCC 12-01 (R)

Dear Ms. Castañeda,

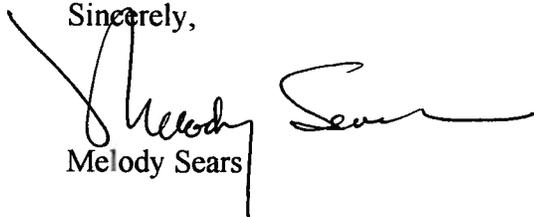
This letter is to state my objection to the proposed rules affecting water quality standards for copper mining activities in New Mexico. As now written, these proposed rules are directly contrary to the NM State Water Quality Act (not to mention Federal water quality standards) in that they will allow pollution of groundwater at mining sites rather than protect our groundwater supplies.

Although I write this as a private citizen, I am also a volunteer board member of the Hillsboro Mutual Domestic Water Consumers Association and my general concerns about groundwater pollution at mine sites are heightened by my concern that communities and citizens located in close proximity to mining sites could be placed in jeopardy by adoption of these new rules. It is my understanding that the proposed rules were largely drafted by mining representatives in their favor, not in favor of the continued water quality now enjoyed by New Mexico's citizens.

Enough pandering to outside corporate interests. As New Mexicans, both of us, I urge you to please send these rules back to the New Mexico Environment Department and the Copper Rules Advisory Committee for responsible revision that will benefit our people, rather than benefitting outside companies.

Thank you for your attention.

Sincerely,


Melody Sears

Castaneda, Pam, NMENV

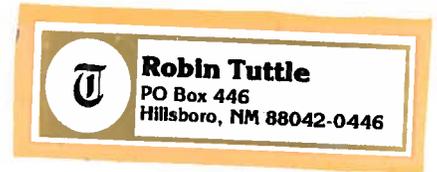
From: Noah Pardo-Friedman <nemoinfinite@gmail.com>
Sent: Thursday, April 25, 2013 12:32 PM
To: Castaneda, Pam, NMENV
Subject: Case No. WQCC 12-01(R), The Copper Mine Rule

Please forward my comments to the full commission.

I live in Albuquerque, and I would like to register my strong objection to the proposed new copper mining rules. The proposed rules would give a default answer of "yes" to groundwater pollution under mines, rather than evaluating case-by-case. This would virtually assure an increase in demand for already strained water supplies, and though companies are required to "treat" contaminated water, let's be real, it still compromises the quality of the groundwater.

The fact that the mining industry is the leading voice here tells you all you need to know.

-Noah



TO: STATE OF NEW MEXICO
WATER QUALITY CONTROL COMMISSION

FROM: ROBIN TUTTLE, HILLSBORO, NEW MEXICO

RE: Case No. WQCC 12-01(R), Proposed Amendments to 20.6.2 NMAC,
THE COPPER MINE RULE

DATE: April 25, 2013

My name is Robin Tuttle. I live in Hillsboro, Sierra County, where the New Mexico Copper Corporation (NMCC) is attempting to reopen the Copper Flat Mine. I am testifying as a member of the interested public whose property, water, may be damaged by the proposed rules regulating the copper mining industry.

I am newly a New Mexican and learning quickly the critical need for abundant, unpolluted water in arid country. I am concerned that if adopted as drafted, the copper mining rules before the Water Quality Control Commission (WQCC) will have the potential to seriously compromise water quality in New Mexico, a state that gets 90 percent of its drinking water from groundwater

I would to like to comment on one provision in particular. Earlier versions of the proposed rules required that High Density Polyethylene (HDPE) liners be placed under all new waste rock piles and tailing impoundments, without exception, to prevent pollution from leaching into groundwater. Under the version being considered by the WQCC, the New Mexico Environment Department (NMED) can exempt a mining operation

from using liners. It is unclear in these circumstances how groundwater, once contaminated by an open pit, by tailings, and by waste rock storage, will be perpetually contained without the use of synthetic liners.

The proposed operation of the Copper Flat mine by NMCC illustrates how politics is compromising regulation. Initially, NMCC indicated in a submission to NMED that it did not plan to use liners at its Copper Flat mine, arguing that the land had a thick bed of clay that acted as a liner. Both NMED, calling for one liner, and the Percha and Animas Watershed Association, calling for two, countered that liners were necessary to protect local groundwater.

Before NMCC and NMED could reach an agreement on the liner issue, NMCC proposed instead to operate at Copper Flat with dry stack tailings. On its revised federal application, NMCC indicated its intention to use a single liner. The proposal NMCC submitted to the Mining and Minerals Division was ambiguous; it did not mention the use of a liner and appeared to be incomplete on how otherwise it planned to secure tailings. NMCC seems to be hedging its bets

Prior to the submission of the final proposed rules to the WQCC, the issue for NMED with respect to Copper Flat was whether one or two liners would best protect local groundwater. NMED is no longer insisting on a liner at Copper Flat. The protection of Hillsboro and Animas groundwater is

now undermined entirely by the proposed final rules allowing exemptions from their use.

This has particular consequences for the Hillsboro area and New Mexico generally. New Mexico is a state known for limestone formations (karst). Limestone formations are often riddled with holes (the cause for homes in Florida disappearing into the ground) and are susceptible to subsidence. Single liners used in a limestone environment can leak and cause subsidence below the liner. In this circumstance, they can no longer hold a pondwater's weight, causing the pondwater, to disappear into the limestone holes. The use of double liners by mining operations with monitoring devices is the best defense in this environment.

Subsidence and other serious problems can be avoided by adopting a double synthetic liner rule for all containment purposes: tailings impoundment, waste rock storage, leach stockpile, as well as process water and impacted storm water holding.

Given the common knowledge that geosynthetic liners are not impermeable but, because of a variety of physical, chemical, and human causes, always need to be considered as practically permeable (as, for example, the use of Giroud equations to estimate the flow of fluid through geomembranes), and given the common knowledge that HDPE is widely used not because of its qualities but because it is comparatively cheap, it is surprising that the proposed rules allow the use of a single HDPE liner

under a leach stockpile. This seems a very low standard to safeguard water. The Superfund site at Summitville, Colorado, was the result of a torn single HDPE liner for the leach stockpile. Surely, we have learned something from that experience.

The use of HDPE, a comparatively brittle and inelastic substance, is especially problematic in mining in New Mexico, given the increased stresses caused by high elevation (ultraviolet deterioration), wide swings in temperatures (necessitating extra material that then is susceptible to folding and creasing), quick alternations in winter between freezing and thawing (lateral stresses causing seam failures, delaminations, etc.), the prevalent acidity of the solutions (oxidation), concussive shocks of blasting, seismic activity, subsidence in limestone formations, the impossibility of solving some balancing problems (white liners to reflect heat vs. black liners that protect against ultraviolet radiation), etc. A double liner system with leak detection in-between is the minimal standard that provides reasonable containment for the pollution problems mining creates. It would set a higher standard against which to compare alternative methods of containment than the intercept system.

It is additionally surprising that the proposed rules will allow NMED to permit copper mines to operate without using geomembrance liners, given the way in which NMED regulates solid waste landfills. All municipal solid waste landfills (MSWLFs) must comply with the federal

regulations in 40 CFR Part 258 (Subtitle D of RCRA), or equivalent state regulations. Federal – and New Mexico - MSWLF standards include:

- (1) Location restrictions — ensuring that landfills are built in suitable geological areas away from faults, wetlands, flood plains, or other restricted areas;
- (2) Composite liners requirements — including a flexible geomembrane overlaying two feet of compacted clay soil lining the bottom and sides of the landfill, to protect groundwater and the underlying soil from leachate releases;
- (3) Leachate collection and removal systems — sitting on top of the composite liner and removing leachate from the landfill for treatment and disposal;
- (4) Operating practices — including compacting and covering waste frequently with several inches of soil help reduce odor; control litter, insects, and rodents; and protect public health;
- (5) Groundwater monitoring requirements — requiring that groundwater wells be tested to determine whether waste materials have escaped from the landfill;
- (6) Closure and postclosure care requirements — including covering landfills and providing long-term care of closed landfills;
- (7) Corrective action provisions — controlling and cleaning up landfill releases and achieving groundwater protection standards; and
- (8) Financial assurance — providing funding for environmental protection during and after landfill closure (i.e., closure and postclosure care).

We in Sierra County are well aware of these requirements and have

adopted long overdue measures to comply with them. It is ironic that NMED's Ground Water Quality Bureau is proposing rules that exempt copper mining operations from securing tailings using liners while its Solid Waste Bureau strictly requires the use of liners by landfills to contain far less hazardous household waste.

Chuck Barrett PO Box 431, Hillsboro, NM 88042

April 25, 2013

Pam Castañada, Commission Administrator
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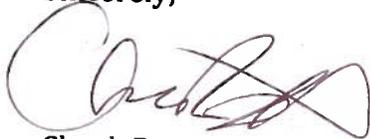
This letter is to state my objection to the proposed rules affecting water quality standards for copper mining in New México. As now written the proposed rules contradict the NM State Water Quality Act, not to mention Federal standards.

They allow water pollution through failure to require linings at mining sites and other measures. They rely on hocus-pocus engineering theories that crumble in the face of common sense. Are there not cracks, fissures, runnels and runs that exist and/or can appear in cones of excavation? Will the polluted mine water always run straight to the bottom and not enter these ubiquitous features of western and specifically New México terrain? And when they get to the bottom do they not need a lining to contain the pollution and prevent it's escape into ground water?

These rules are a Trojan Horse constructed by the mining industry, attempting to masquerade callous greed as if it were the common good. The rules do not benefit the people in and around mining site areas, far from it, they lead to the all-too-familiar practice of degrading rural sites and rural people.

Enough! Let the people's will be foremost and not the wealth of King Copper. Send these rules back to the NM Environment Department and the Copper Rules Advisory Committee for responsible revision that will benefit the balance of the people instead of the balance sheets of the copper interests.

Sincerely,



Chuck Barrett